IN THE HIGH COURT OF JUDICTURE FOR RAJASTHAN AT JODHPUR.

O R D E R

State of Rajasthan & ors. Versus Smt. Parvati Devi & Anr.

S.B. Civil Writ Petition No. 1484/2007

Date of Order: May 31, 2007

PRESENT

HON'BLE MR. JUSTICE H.R. PANWAR

Mr. B.L. Tiwari, Deputy Government Advocate for petitioners.
Mr. K.S. Nahar, for respondent No.1.

BY THE COURT:

By the instant writ petition, the petitioners have challenged the order Annx.4 dated 25-7-2006 passed by the respondent No.2 Rajasthan Civil Services Appellate Tribunal, Circuit Bench, Jodhpur (for short, "the Appellate Tribunal" hereinafter), whereby the petitioners were directed to issue amended Pension Payment Order by adding Rs.110/- as Dearness Pay in respect of husband of respondent No.1 and set aside the order Annx.4 therein dated 23-8-1999 by which the Pension Payment Order was issued in favour of the respondent No.1.

I have heard learned counsel for the parties.

It is contended by Mr. B.L. Tiwari, learned Deputy

Government Advocate that vide order dated 23-8-1999, while sanctioning the pension and issuing Pension Payment Order, Rs. 110/- as dearness pay has already been included in the pay. Learned Deputy Government Advocate submits that the basic pay of the husband of respondent No.1 at the time of retirement was Rs.360/-. He was getting Rs.30/- as special pay and Rs.146/- as Dearness Allowance including Rs.110/- as dearness pay. He was also getting Rs.42/- as adhoc relief and Rs.20/- as additional dearness allowance and in this way, the total pay of the husband of respondent No.1 was Rs.598/- per month; however his notional pay was revised from time to time and his pay in the year 1981 was Rs.950/-, in the year 1986 it was Rs.1640/- and in the year 1988, it was Rs.1750/- and special pay i.e. rural allowance was Rs.30/- and thus he was drawing Rs.1780/- as the total pay. According to the learned Deputy Government Advocate, the pension of the husband of the respondent No.1 is inclusive of basic pay and dearness pay. He has placed on record a Chart showing the details of calculation of pension in arriving at the figure for calculating the pension inclusive of dearness pay. Learned counsel for the respondent No.1 has failed to point out that the dearness pay has not been included in the Pension Payment Order.

From the order Annx.4, it no where appears that this has been considered by the Appellate Tribunal and, therefore, in

my view, the Appellate Tribunal fell in error in directing the petitioners to revise the Pension Payment Order. In this view of the matter, the writ petition filed by the petitioners deserves to be allowed.

In the result, the writ petition is allowed. The impugned order Annx.4 dated 25-7-2006 passed by the Rajasthan Civil Services Appellate Tribunal, Jaipur, Circuit Bench, Jodhpur, is set aside. The application, being IA No.2154/2007, under Section 226 (3) of the Constitution of India filed by the respondent No.1 stands dismissed. There shall be no order as to costs.

(H.R. PANWAR), J.

mcs